IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 358 OF 2005

SMT. AQUINA MORAES ....Petitioner

Versus

SMT. BETTY LOBO E MORAES ....Respondent

Mr. V.G. Pai Dukle, Advocate for the Petitioner.
Mr. C.A.Coutinho, Advocate for the Respondent.

Coram:- SMT. RANJANA DESAI, J.

Date:- 22nd June, 2006

P.C.:

The petitioner is plaintiff in Civil Suit No.1/98/I pending on the file of Civil Judge, Senior Division, Margao. On 7.02.05 the plaintiff filed an application for adjournment. By Order dated 7.02.2005, the learned Judge has directed that the evidence of the plaintiff is closed. The impugned order passed by the learned Judge reads thus :-

" It is seen that the plaintiff is seeking adjournments again and again on the ground that the advocate is sick, plaintiff is sick and already time was granted to the plaintiff on 3 occasions earlier. It appears that the plaintiff wants to delay the matter on one ground or the other. Hence in my opinion this is a fit case for closing the evidence of the plaintiff. Hence application is dismissed. "

2. It appears that the learned Judge is irked by the fact that the plaintiff is repeatedly asking for adjournments. He is of the opinion that the plaintiff wants to delay the matter on one ground or the other. Obviously, the learned Judge is anxious to see that the suit is disposed of at the earliest. He cannot be faulted for such approach. The learned counsel for

the petitioner states that if one chance is given, the plaintiff will ensure that no further adjournments are asked and the suit is disposed of at the earliest. Learned counsel also states that the plaintiff will cooperate with the Court and ensure expeditious disposal of the suit. In the circumstances, in my opinion, the following order will meet the ends of justice.

3. The petitioner/plaintiff is directed to pay costs, quantified at Rs.2500/- to the respondent/defendant. The amount of Rs.2500/- which is already deposited in this Court is treated as costs deposited by the petitioner/plaintiff. The respondent/defendant will be at liberty to withdraw the said amount. The order closing the evidence of the plaintiff is set aside. The plaintiff is permitted to lead evidence. The plaintiff is expected to cooperate and ensure expeditious disposal of the suit.

Petition disposed of.

SMT. RANJANA DESAI, J.

sl.